

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SAMY GAILLARD,

Plaintiff,

-against-

COMPLAINT
AND JURY TRIAL
DEMAND

P.O. "JOHN" FANA and
SERGEANT LAWRENCE BETTEX, Shield No. 4846,

Defendants.
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Plaintiff, SAMY GAILLARD, by his attorney, ALAN D. LEVINE, ESQ.,
complaining of the defendants herein, respectfully alleges as follows:

JURISDICTION

1. This is a civil action, seeking compensatory damages, punitive damages and attorney's fees.

2. This action is brought pursuant to 42 U.S.C. §§1983 and 1988 and the fourth and fourteenth amendments to the Constitution of the United States.

3. Jurisdiction is founded upon 28 U.S.C. §§1331 and 1343.

VENUE

4. Venue is properly alleged in the Eastern District of New York in that the acts complained of herein occurred within this District.

JURY TRIAL DEMAND

5. Plaintiff hereby demands a trial by jury of all issues in this action that are so triable.

PARTIES

6. At all times relevant hereto, plaintiff, SAMY GAILLARD, was and is a natural person, resident in the County of Kings, City and State of New York.

7. At all times relevant hereto, defendant P.O. "JOHN" RANA (hereinafter "RANA") was and is a natural person, employed as a police officer by the Police Department of the City of New York, assigned to the Brooklyn South Warrant Squad

8. At all times relevant hereto, defendant SERGEANT LAWRENCE BETTEX, Shield No. 4846 (hereinafter "BETTEX") was and is a natural person, employed as a sergeant by the Police Department of the City of New York, assigned to the Brooklyn South Warrant Squad.

9. The defendants are sued in their individual capacities.

AS AND FOR A CAUSE OF ACTION
(42 U.S.C. §1983)

10. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs "1" through "9" hereinabove as if more fully set forth at length herein.

11. On or about November 18, 2020, plaintiff was arraigned, on a charge totally unrelated to the subject matter of this lawsuit, in Criminal Court of the City of New York, County of Kings.

12. At the aforementioned arraignment, bail of \$1.00 was set.

13. When plaintiff attempted to leave the courthouse following payment of his bail, however, he was rearrested and charged with being wanted pursuant to a warrant for a person named Sammy Gillard, who was the subject of a bench warrant that had been issued in 1991.

14. The aforementioned bench warrant had on it a color photograph of Sammy Gillard and the information that Mr. Gillard's date of birth was in 1967. Plaintiff's date of birth was in 1935.

15. Despite his protestations of innocence, his lack of resemblance to the aforementioned photograph, and his date of birth, plaintiff was transported to a jail on Rikers Island, where he was held for two days, until he appeared before a judge in Criminal Court, County of Kings who released him on his own recognizance.

16. Plaintiff next appeared in Criminal Court, County of Kings on January 8, 2021.

17. On the aforementioned date, the judge presiding in plaintiff's case provided him with a letter, signed by the judge, stating that plaintiff was not the same person as Sammy Gilliard who was charged under Kings County Indictment Number 1589- 90.

18. Plaintiff made certain to have a copy of the aforementioned letter on his person at all times.

19. Nevertheless, on January 19, 2021, defendant RANA re-arrested plaintiff.

20. On this occasion, plaintiff was taken to Supreme Court, Kings County where he was held for ten hours before once again being released on his own recognizance.

21. On February 3, 2021, despite being shown the aforementioned letter from the judge, and once again having the discrepancies in appearance and dates of birth between plaintiff and the person for whom the warrant was issued being brought to his attention, defendant RANA, acting at the direction of defendant BETTEX, once again arrested plaintiff.

22. On this occasion, plaintiff was transported directly to Rikers Island, where he remained incarcerated until he was once again brought to court and released on his own recognizance on February 6, 2021.

23. On February 16, 2021, as a result of his attorney's advocacy, resulting in a motion by the Kings County District Attorney, the thirty-one-year-old warrant for Sammy Gillard was dismissed, thereby ending plaintiff's ordeal.

24. Defendants RANA and BETTEX violated plaintiff's rights to be arrested only with probable cause therefor, guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States, in that, while they were acting under the color of state law, they arrested him without having probable cause to do, so based on a warrant that they knew was not issued for him.

25. Because of the aforementioned acts committed against him by defendants RANA and BETTEX, plaintiff suffered a deprivation of his right to be arrested only with probable cause therefor, guaranteed to him by the fourth and fourteenth amendments to the Constitution of the United States, and, as a result, suffered a loss of his liberty; lost time and income from his employment; and suffered extreme mental anguish.

26. By reason of the aforementioned unconstitutional and illegal actions taken against him by defendants RANA and BETTEX, plaintiff has been damaged in an amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against defendants RANA and BETTEX.

WHEREFORE, plaintiff, SAMY GAILLARD, demands judgment against defendants, P.O. "JOHN" RANA and SERGEANT LAWRENCE BETTEX, Shield No. 4846, in an amount sufficient to compensate him for his injuries as enumerated hereinabove and, in addition, seeks punitive damages against defendants RANA and BETTEX.

In addition, plaintiff demands the costs and disbursements of this action, including his attorney's fees, pursuant to 42 U.S.C. §1988.

Dated: Forest Hills, New York
March 24, 2023

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